

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JERRY WELCH,

Plaintiff,

v.

**CAROLYN W. COLVIN,
Acting Commissioner of the
Social Security Administration,**

Defendant.

Case No. CIV-16-434-R

REPORT AND RECOMMENDATION

Jerry Welch, a non-incarcerated plaintiff appearing by counsel, has filed an application for leave to proceed in this new civil action without prepaying fees or costs. IFP Appl. (Doc. No. 3) at 1-2 (entered May 10, 2016). The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b). Having reviewed Plaintiff's sworn application, the undersigned finds that Plaintiff has \$12,000 "in cash or in a checking or savings account," IFP Appl. at 2, which is sufficient to prepay the \$400.00 fee required to initiate this action. *See* 28 U.S.C. § 1914; LCvR 3.3; *cf. Stevens v. Salvation Army*, No. CIV-14-636-F, 2014 WL 2993758, at *1 (W.D. Okla. July 3, 2014) (finding that incarcerated plaintiff who had \$766.79 in his institutional accounts could prepay \$400.00 filing fee).

Because Plaintiff has not demonstrated an inability to prepay the filing fee or shown extenuating circumstances that would require excusal of payment, the undersigned recommends that the District Judge:

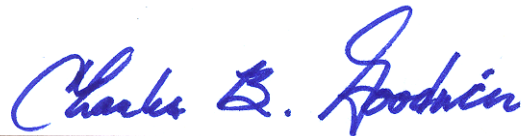
- (1) deny Plaintiff's application for leave to proceed without prepaying fees or costs (Doc. No. 3);
- (2) order Plaintiff to pay the full \$400.00 filing fee within 21 days of any order adopting this Report and Recommendation, *see* LCvR 3.2, 3.3(e); and
- (3) dismiss the action without prejudice to refiling if Plaintiff fails to timely pay the filing fee to the Clerk of this Court, or to show good cause for his failure to do so, *see* LCvR 3.3(e).

NOTICE OF RIGHT TO OBJECT

Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by **June 1, 2016**, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. Plaintiff further is advised that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation disposes of all issues referred to the undersigned Magistrate Judge in the present case.

ENTERED this 18th day of May, 2016.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE